



W.P.No.1206 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2024

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THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.1206 of 2021

T.David Manoharan

... Petitioner

/vs/

- 1.Government of Tamil Nadu,
Represented by its Secretary,
School Education,
Fort St. George, Chennai – 600 009.
- 2.Joint Director of School Education,
(Vocational Education), Chennai – 6.
- 3.Joint Director of School Education,
(Higher Secondary), Chennai – 6.
- 4.Chief Educational Officer,
Chennai – 600 015.
- 5.The District Educational Officer,
Chennai – 600 015.
- 6.The Secretary,
General Cariappa Higher Secondary School,
No.1, Kamaraj Street,
Gandhi Nagar, Saligramam,



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Chennai – 600 093.

... Respondents

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Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to call for the records relating to the impugned order issued by the 2nd respondent in Na.Ka.No.12600/K/E1/2018, dated 17.03.2020 and consequential order passed by the 3rd respondent in Na.Ka.No.22101/w5/E2/2019, dated 23.06.2020 and quash the same and to direct the respondents to sanction incentive increment to the petitioner from 31.07.2008 onwards for higher qualification of M.Phil., degree as per G.O.Ms.No.194, School Education Department, dated 10.10.2006 and give all consequential benefits, within a time to be stipulated by this Court.

For Petitioner ... Mr.P.Ganesan

For Respondents ... Mr.P.Gurunathan
Additional Govt. Pleader for R1 to R5

Mr.R.Premnarayanan for R6



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ORDER

This writ petition is filed challenging the order of the 2nd respondent, dated 17.03.2020, and the consequential order of the 3rd respondent, dated 23.06.2020, rejecting the representation of the petitioner to grant him incentive increment for having acquired higher qualification, i.e., M.Phil., degree.

2.The petitioner states that he joined as a P.G. Assistant (Commerce) in the 6th respondent School on 29.07.1992. Thereafter, he was regularly appointed in the sanctioned post on 05.08.1994. It is the case of the petitioner that he acquired higher qualification, i.e., M.Phil, in the year 2008 and requested the Management to sanction incentive increment for having acquired higher qualification. The petitioner filed W.P.No.6314 of 2018 before this Court to grant incentive increment for having acquired higher qualification. The said writ petition was disposed of by this Court by an order dated 13.02.2019 with a direction to consider the representation of the petitioner and pass appropriate orders. Pursuant to the directions of this Court, the respondents have passed the impugned orders rejecting the request of the petitioner to grant incentive increment, on



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the ground that the petitioner has not acquired prior permission from the authorities. Aggrieved by the same, the petitioner has filed the above writ petition.

3.Learned counsel for the petitioner submitted that the petitioner has joined the M.Phil. Course in the year 2006 and the Government has issued a clarification dated 02.01.2007, clarifying that the cases of all teachers who have acquired higher qualification without the prior permission of the Management as on that date are ratified as a special case and they are eligible for grant of incentive increment. Therefore, the learned counsel contended that, even though the petitioner has acquired higher qualification without obtaining prior permission, his case is ratified as a special case by the aforesaid Government's clarification letter dated 02.01.2007. The learned counsel relied upon a judgment of this Court in W.P.(MD) Nos.4576, 4578 & 4581 of 2020, dated 10.03.2020, wherein, similarly placed persons were granted incentive increment for acquiring M.Phil., degree, even without obtaining prior permission from the authorities.



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4.The petitioner has stated in the affidavit that he got admitted to the M.Phil., course in January, 2006 and had completed the course in December, 2006 and passed the M.Phil., degree on 30.07.2008 by passing viva voce conducted on 30.06.2008. Though it is admitted that the petitioner has not obtained prior permission from the authorities, his case falls under the special case for ratification as clarified by the Government vide letter dated 02.01.2007. This Court, in similar circumstances, in W.P.(MD) Nos.4576, 4578 & 4581 of 2020, dated 10.03.2020, has held the entitlement for incentive increment to the petitioners therein. The operative portion of the order reads as follows :

“7.It is pertinent to note that while the ratification order passed by the second respondent is in force, the third respondent can not deny the benefit of incentive increment to the petitioners. The learned counsel for the petitioner relied upon the order made in W.P(MD) No.12472 of 2014, wherein, it was held as follows:-

“5.The learned Single Judge of this Court in the case of J.Tamilrajan vs. The State of Tamil Nadu and others, by order dated 03.01.2019, has followed the unreported decision of this Court in a previous case, which is similar to the present case and held that the claims for incentive increment for acquiring higher qualification cannot be denied on



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the ground that undertaking higher education by the teacher was without prior permission.

6.The learned counsel for the respondents though <http://www.judis.nic.in> W.P.(MD) No.12472 of 2014 relied upon the counter affidavit, reiterated the same contentions that was considered by the learned single Judge of this Court in the similar case relied upon by the petitioner.

7.This Court has consistently held that the petitioner and other similarly placed persons are entitled to incentive increments, despite the fact that they had undergone higher studies without prior permission.”

8.The above case is squarely applicable to the present case on hand. Even in my opinion, mere non obtaining of prior permission will not disentitle the petitioners from getting their incentive increment. Since the higher qualification acquired by the teachers with or without prior permission will be definitely helpful to the students and the school as well. For all the forgoing reasons, I am inclined to interfere with the impugned rejection order passed by the third respondent.

9.Accordingly, the impugned order passed by the third respondent in his proceedings in O.Mu.No.1633/A4/2019 dated 17.12.2019 is hereby quashed and there shall be a



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direction to the respondents to sanction incentive increment to the petitioners for having acquired M.Phil. Such exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

10. With the above directions, these Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous petitions are closed.”

5. In the light of the consistent view taken by this Court in similar cases to grant incentive increment to the similarly placed persons like petitioner despite the fact that they had undergone higher studies without prior permission, this Court is inclined to extend the relief to the petitioner herein also. Accordingly, the impugned orders of the 2nd respondent, dated 17.03.2020, and the consequential order of the 3rd respondent, dated 23.06.2020, insofar as rejection of the request of the petitioner to grant him incentive increment for having acquired M.Phil., degree, are set aside, and there shall be a direction to the respondents to sanction incentive increment to the petitioner herein for having acquired M.Phil., degree. Such exercise shall be completed within a period of six weeks from the date of receipt of



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a copy of this order.

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6. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed

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Index: Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

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R.N.MANJULA ,J.

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